Deed Book 58649 Pg 148
Filed and Recorded Apr-16-2018 03:26pm
2018-0087461
CATHELENE ROBINSON
Clerk of Superior Court
Fulton County, Georgia

After Recording Return to:

Melissa M. Stanford Commercial Real Estate Paralegal Baker Donelson Monarch Plaza, Suite 1600 3414 Peachtree Road, N.E. Atlanta, GA 30326

Environmental Covenant

This instrument is an Environmental Covenant executed pursuant to the Georgia Uniform Environmental Covenants Act, OCGA § 44-16-1, et seq. This Environmental Covenant subjects the Property identified below to the activity and/or use limitations specified in this document. The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded in accordance with OCGA § 44-16-8(a).

Fee Owner of Property/Grantor:

Fairmont Flats, LLC

1819 Peachtree Road, Suite 575

Atlanta, GA 30309

Grantee/Holder:

Fairmont Flats, LLC

1819 Peachtree Road, Suite 575

Atlanta, GA 30309

Grantee/Entity with

express power to enforce:

State of Georgia

Department of Natural Resources Environmental Protection Division

2 Martin Luther King Jr. Drive, SE Suite 1456 East Tower

Atlanta, GA 30334

Parties with interest in the Property:

None

Property:

The property subject to this Environmental Covenant is the former I. Schneid facility, located on 1429 Fairmont Avenue, NW in Atlanta, Fulton County, Georgia (hereinafter "Property"). This tract of land was conveyed on January 20, 2016 from English Asset Holding LLC to Fairmont Flats, LLC recorded in Deed Book 55793, Pages 326 and 331, Fulton County Records. The Property is located in Land Lot 188 of the 17th District of Fulton County, Georgia. The property includes 3.09 acres. A complete legal description of the Property is attached as Exhibit A and a map of the Property is attached as Exhibit B.

Tax Parcel Number(s):

17 018800020170 of Fulton County, Georgia

Name and Location of Administrative Records:

The corrective action at the Property that is the subject of this Environmental Covenant is described in the following document[s] (as same may be amended from time to time with written approval from EPD):

- First Annual Report on Effectiveness of Corrective Action, September 2006.
- Second Annual Report on Effectiveness of Corrective Action, October 2007.
- Third Annual Report on Effectiveness of Corrective Action, October 2008.
- Fourth Annual Report on Effectiveness of Corrective Action, February 2010.
- Fifth Annual Report on Effectiveness of Corrective Action, February 2011.
- Soil Corrective Action Completion and Certification Report, July 15, 2014.
- Final Compliance Status Report, July 2017.

These documents are available at the following locations in the files for HSI No. 10753:

Georgia Environmental Protection Division Response and Remediation Program 2 MLK Jr. Drive, SE, Suite 1054 East Tower Atlanta, GA 30334 M-F 8:00 AM to 4:30 PM excluding state holidays

Description of Contamination and Corrective Action:

Site investigation activities identified five areas where soils were not in compliance with the approved RRS for the Site. These areas were located in proximity to the solvent mixing room, floor drain, and sump. Contaminants in soil include volatile organic compounds, semi-volatile organic compounds, metals, pesticides and herbicides. These areas were remediated using a combination of heat-catalyzed persulfate, soil vapor extraction (SVE), and excavation/off-site disposal.

Ground water contamination by VOCs, SVOCs, and herbicides is also present. Ground water remediation has been conducted using air sparge/SVE. A small area of free-phase liquid product is present on top of the water table in proximity to the most significant area of soil excavation. This area is shown on the attached survey site drawing prepared by Metro Engineering & Surveying Company, Inc.

This Property has been listed on the state's hazardous site inventory and has been designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law. Contact the property owner or the Georgia Environmental Protection Division for further information concerning this Property. This notice is provided in compliance with the Georgia Hazardous Site Response Act.

This Declaration of Covenant is made pursuant to the Georgia Uniform Environmental Covenants Act, O.C.G.A. § 44-16-1 et seq. by Fairmont Flats, LLC, its successors and assigns, I. S. Liquidation, LLC, and the State of Georgia, Department of Natural Resources, Environmental Protection Division (hereinafter "EPD"), its successors and assigns. This Environmental Covenant is required because a release of certain volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), and pesticides/herbicides occurred on the Property. Certain VOCs, SVOCs, and pesticides/herbicides are

"regulated substances" as defined under the Georgia Hazardous Site Response Act, O.C.G.A. § 12-8-90 et seq., and the rules promulgated thereunder (hereinafter "HSRA" and "Rules", respectively). The Corrective Action consists of institutional controls (prohibiting the use of ground water for drinking water or for any other non-remedial purpose) to protect human health and the environment. Furthermore, ground disturbance in the area of the free-phase liquid product shall not be undertaken unless appropriate steps to protect worker health and safety are implemented.

Grantor, Fairmont Flats, LLC (hereinafter "Fairmont Flats"), hereby binds Grantor, its successors and assigns to the activity and use restriction(s) for the Property identified herein and grants such other rights under this Environmental Covenant in favor of Fairmont Flats and EPD. EPD shall have full right of enforcement of the rights conveyed under this Environmental Covenant pursuant to HSRA, O.C.G.A. § 12-8-90 et seq., and the rules promulgated thereunder. Failure to timely enforce compliance with this Environmental Covenant or the use or activity limitations contained herein by any person shall not bar subsequent enforcement by such person and shall not be deemed a waiver of the person's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict EPD from exercising any authority under applicable law.

Fairmont Flats makes the following declaration as to limitations, restrictions, and uses to which the Property may be put and specifies that such declarations shall constitute covenants to run with the land, pursuant to O.C.G.A. § 44-16-5(a); is perpetual, unless modified or terminated pursuant to the terms of this Covenant pursuant to O.C.G.A. § 44-16-9 and 10; and shall be binding on all parties and all persons claiming under them, including all current and future owners of any portion of or interest in the Property (hereinafter "Owner"). Should a transfer or sale of the Property occur before such time as this Environmental Covenant has been amended or revoked then said Environmental Covenant shall be binding on the transferee(s) or purchaser(s).

The Environmental Covenant shall inure to the benefit of Fairmont Flats, EPD, and their respective successors and assigns and shall be enforceable by the Director or his agents or assigns, Fairmont Flats or its successors and assigns, and other party(ies) as provided for in O.C.G.A. § 44-16-11 in a court of competent jurisdiction.

Activity and/or Use Limitation(s)

- 1. <u>Registry.</u> Pursuant to O.C.G.A. § 44-16-12, this Environmental Covenant and any amendment or termination thereof, may be contained in EPD's registry for environmental covenants.
- 2. Notice. The Owner of the Property must give thirty (30) day advance written notice to EPD of the Owner's intent to convey any interest in the Property. No conveyance of title, easement, lease, or other interest in the Property shall be consummated by the Owner without adequate and complete provision for continued monitoring, operation, and maintenance of the Corrective Action. The Owner of the Property must also give thirty (30) day advance written notice to EPD of the Owner's intent to propose any site work that would affect the Property within the area of free-phase liquid product shown on Figure 1.
- 3. Notice of Limitation in Future Conveyances. Each instrument hereafter conveying an interest in the Property subject to this Environmental Covenant shall contain a notice of the activity and use limitations set forth in this Environmental Covenant and shall provide the recorded location of the Environmental Covenant.
- 4. Monitoring. None required.

- 5. <u>Periodic Reporting.</u> Annually, by no later than January 31 following the effective date of this Environmental Covenant, the Owner shall submit to EPD an Annual Certification Report stating whether or not the activity and use limitations in this Environmental Covenant are being abided by.
- 6. Activity and Use Limitation(s). Ground disturbance (i.e., excavation, trenching, etc.) to depths greater than 10 feet below ground surface in the area of the property where free phase-liquid product is present on top of the water table shall be prohibited unless appropriate steps are taken to protect the health and safety of the workers involved in the disturbance.
- 7. <u>Ground Water Limitation.</u> The use or extraction of ground water beneath the Property for drinking water or for any other non-remedial purposes shall be prohibited.
- 8. Permanent Markers. Not required.
- Right of Access. In addition to any rights already possessed by EPD and/or Fairmont Flats, the Owner shall allow authorized representatives of EPD and/or Fairmont Flats the right to enter the Property at reasonable times for the purpose of determining compliance with this Environmental Covenant.
- 10. Recording of Environmental Covenant and Proof of Notification. Within thirty (30) days after the date of the Director's signature, the Owner shall file this Environmental Covenant with the Recorders of Deeds for each County in which the Property is located, and send a file stamped copy of this Environmental Covenant to EPD within thirty (30) days of recording. Within that time period, the Owner shall also send a file-stamped copy to each of the following: (1) Fairmont Flats, (2) each person holding a recorded interest in the Property subject to the covenant, (3) each person in possession of the real property subject to the covenant, (4) each municipality, county, consolidated government, or other unit of local government in which real property subject to the covenant is located, and (5) each owner in fee simple whose property abuts the property subject to the Environmental Covenant.
- 11. <u>Termination or Modification</u>. The Environmental Covenant shall remain in full force and effect in accordance with O.C.G.A. § 44-16-1 et seq., unless and until the Director determines that the Property is in compliance with the Type 1, 2, 3, or 4 Risk Reduction Standards, as defined in Georgia Rules of Hazardous Site Response (Rules) Section 391-3-19-07, whereupon the Environmental Covenant may be amended or revoked in accordance with Section 391-3-19-08(7) of the Rules and O.C.G.A. § 44-16-1 et seq.
- 12. <u>Severability.</u> If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.
- 13. No EPD Interest in Property Created. This Environmental Covenant does not in any way create any interest by EPD in the Property that is subject to the Environmental Covenant. Furthermore, the act of approving this Environmental Covenant does not in any way create any interest by EPD in the Property in accordance with O.C.G.A. § 44-16-3(b).

Representations and Warranties.

Grantor hereby represents and warrants to the other signatories hereto:

- a) That the Grantor has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
- b) That the Grantor is the sole owner of the Property and holds fee simple title which is free, clear and unencumbered;

- c) That the Grantor has identified all other parties that hold any interest (e.g., encumbrance) in the Property and notified such parties of the Grantor's intention to enter into this Environmental Covenant;
- d) That this Environmental Covenant will not materially violate, contravene, or constitute a material default under any other agreement, document or instrument to which Grantor is a party, by which Grantor may be bound or affected;
- e) That the Grantor has served each of the people or entities referenced in Activity 10 above with an identical copy of this Environmental Covenant in accordance with O.C.G.A. § 44-16-4(d).
- f) That this Environmental Covenant will not materially violate or contravene any zoning law or other law regulating use of the Property; and
- g) That this Environmental Covenant does not authorize a use of the Property that is otherwise prohibited by a recorded instrument that has priority over the Environmental Covenant.

Notices.

Any document or communication required to be sent pursuant to the terms of this Environmental Covenant shall be sent to the following persons:

Georgia Environmental Protection Division Branch Chief Land Protection Branch 2 Martin Luther King Jr. Drive SE Suite 1054 East Tower Atlanta, GA 30334

Fairmont Flats, LLC 1819 Peachtree Road, Suite 575 Atlanta, GA 30309 Attn: Michael Thomas

Grantor has caused this Environmental Covenant to be executed pursuant to The Georgia Uniform Environmental Covenants Act, on the 23° day of ________, 2018.

Signed, sealed, and delivered in the presence	For the Grantor:
Unofficial Witness (Signature)	Fairmont Flats, LLC Name of Grantor (Print)
Unofficial Witness Name (Print)	Grantor's Authorized Representative (Signature)
	D. Kingbough Kyry Th. Authorized Representative Name (Pd.)
Unofficial Witness Address (Print)	Managan Title of Authorized Representative (Print)
Notary Public (Signature) My Commission Expires 1 4 2	Dated: 123(18 (NOTARY SEAL)
ADNEISHAR MINTER SMITH Notary Public — State of Georgia Fulton County	•

	Signed, sealed, and delivered in the presence	For the State of Georgia
	of:	Environmental Protection Division
-	Tamara C. Fischer Unofficial Witness (Signature)	(Signature)
-	Tamara C. Fischer Unofficial Witness Name (Print)	Richard E. Dunn Director
_	AHlanta GA 30334 Unofficial Witness Address (Print)	Dated: 3/19/2018 (NOTARY SEAL)
_	Notary Public (Signature)	O O NOTARL S
	My Commission Expires: June 15, 2021	AUBLIC DE
		2011111116

<SIGNATURE BLOCK FOR HOLDER OR OTHER APPLICABLE PARTIES>

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Exhibit A Legal Description



PARCEL 2

All of that tract or parcel of land lying and being in Land Lot 188, 17th District, Fulton county, City of Atlanta, Georgia and being more particularly described as follows:

Commencing at a 1/2" iron pin and plastic cap placed at the intersection of the north right-of-way line of Culpepper Street (having a 50 foot right-of-way) with the east right-of-way line of Fairmont Avenue (having a 50 foot right-of-way), thence running along the east right-of-way line of Fairmont Avenue North 00°37'27" East, a distance of 125.56 feet to a point and the POINT OF BEGINNING; thence running along said right-of-way line of Fairmont Avenue, North 00°37'27" East, a distance of 627.61 feet to 1/2" rebar found bent; thence leaving said rightof-way line and running along the south property line of property now or formerly owned by Jonathan M. Bryant, South 89°28'22" East, a distance of 299.90 feet to a ½" rebar found; thence running along the west property lines of property now or formerly owned by William S. Whitmire, Jr., 1366 Real Estate Group, LLC. and Weiss Real Estate Investments, L.P., South 00°41'53" West, a distance of 442.77 feet to a 1/2" iron pin and cap placed; thence running along the south property line of property now or formerly owned by Weiss Real Estate Investments, L.P., North 88°10'22" East, a distance of 255.50 feet to a 1/2" iron pin and cap placed on the westerly right-of-way line of English Street (having a 60 foot right-of-way); thence running along said right-of-way line of English Street, South 36°07'17" West, a distance of 107.88 feet to a point; thence leaving said right-of-way line of English Street the following courses and distances: South 77°49'35" West, a distance of 56.31 feet; South 68°53'49" West, a distance of 36.43 feet; South 62°02'56" West, a distance of 51.14 feet; South 65°06'34" West, a distance of 26.63 feet; South 79°19'28" West, a distance of 41.82 feet; South 86°59'24" West, a distance of 34.27 feet; South 86°07'56" West, a distance of 49.24 feet; South 78°52'12" West, a distance of 61.51 feet; South 78°50'41" West, a distance of 43.02 feet; South 80°20'15" West, a distance of 58.51 feet; South 89°58'06" West, a distance of 50.06 feet to a point and the POINT OF BEGINNING.

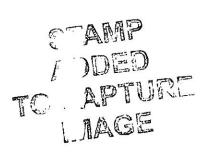
The above described property contains 4.750 acres (206,619 sq. ft.) and being Parcel 2 as depicted on that ALTA/ACSM Land Title and Topographic Survey, dated December 31 2015, prepared by Metro Engineering and Surveying Company, Inc. of McDonough, Georgia, James R. Green, G.R.L.S. #2543 (Job No. 13767).

The above legal description is the same property as insured in the Investors Title Insurance Company Title Commitment, Commitment No. 63145.05, revised January 15, 2015.

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Exhibit B Property Map



RE - PLAT 1388 ENGLISH STREET - TAX ID: 17 0 1429 FAIRMONT AVENUE - TAX ID: 17

CLOSURE STATEMENT

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- THE FIELD DATA UPON WHICH THIS MAP OR PLAT IS BASED HAS A CLOSURE PRECISION OF 1 POOT IN 105,970 FEET AND AN ANGULAR ERROR OF 1 SECONDS PER ANGLE POINT, AND WAS ADJUSTED USING THE LEAST SQUARE METHOD.
- THIS PLAT HAS BEEN CALCULATED FOR CLOSURE AND ITS ACCURACY IS 1
 FOOT IN 144,529 FEET.

EQUIPMENT AND FIELD SURVEY STATEMENT

- LINEAR MEASUREMENTS AND ANGULAR MEASUREMENTS OBTAINED USING TCRA 1105 PLUS.
- . FIELD SURVEY COMPLETED ON 12-31-15.

FLOOD ZONE

BASED ON GRAPHICAL INTERPRETATION, THIS PROPERTY IS SITUATED IN FLOOD ZONE "Y (AREAS DETERMINED TO BE OUTSIDE 500 YEAR FLOODPLAIN) AS DEPICTED BY THE NEP FLOOD INSURANCE RATE MAP NO. 1312/10241F HAVING AN EFFECTIVE DATE OF SEPTEMBER 18, 2013. USER OF THIS INFORMATION IS CAUTIONED THAT A MORE PRECISE FLOOD DELINEATION MAY BE NECESSARY.

ZONING

 SITE IS ZONED = PD-MU (PLANNED DEVELOPMENT-MIXED USE DISTRICT-BELT LINE OVERLAY)

DEVELOPMENT CONTROLS FOR PO-MU ZONING ARE FOUND IN CHAPTER 19 AND 19B OF THE CITY OF ATLANTA ORDINANCES.

 SURVEYOR MAKES NO WARRANTY AS TO THE EFFECT OF ZONING TO THE CURRENT OR FUTURE USE OF THE SUBJECT PROPERTY. USER OF THIS MAP IS HEREBY CANTIONED TO CONSULT THE APPROPRIATE GOVERNING BODY FOR FINAL INTERPRETATION CONCERNING ZONING.

UTILITIES

OVERHEAD AND U BASED UPON FIEL HAND AT THE TIME ACCESSIBLE WER WAY TO MEASURE NOTICE IS HEREB; UTILITY LOCATION EXCAVATION OF T

STREAMS, BODIES

- ALL STREAMS, BO COUNTY, AND LOC INTERPRETATION THIS MAP IS CAUT AUTHORITIES CON
- THERE ARE NO AI
 ACCORDING TO TI
 INVENTORY LOCA

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 UNLESS SHOWN IN ARCHITECTURAL I SURVEYOR HAS IN PROFESSIONAL IN

CERTIFICATION

 THIS SURVEY WAS NAMED HEREON A

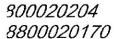
SURVEY REFEREN

- BOUNDARY, TOPC
 OF NORTH GEORG
 CC LAND SURVEY.
- 2. DEED BOOK 50481

HORIZONTAL DAT

HORIZONTAL DATUM 1 CORRECTIONS FROM PLAN, WEST ZONE, NA

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ROUND UTILITIES THAT ARE SHOWN HEREON ARE ACE OBSERVATIONS AND AVAILABLE INFORMATION ON SURVEY, ONLY UTILITIES THAT WERE VISIBLE AND YRED. SITE EXCAVATION WAS NOT PERFORMED IN ANY IBSURFACE UTILITY OR FEATURE OF ANY TYPE. THAT "KNOW WHATS BELOW, CALL BEFORE YOU DIG." 'E (811) SHOULD BE NOTIFIED PRIOR TO ANY

'ATER, & WETLANDS

"WATER, AND WETLANDS MAY BE SUBJECT TO STATE, FERS OR RESTRICTIONS. SURVEYOR MAKES NO INIO THESE BUFFERS OR RESTRICTIONS USER OF TO CONSULT WITH THE APPROPIATE COUPERING IG POSSIBLE BUFFERS OR RESTRICTIONS.

T WETLANDS LOGATED ON THE SUBJECT PROPERTY FISH AND WILDLIFE SERVICE NATIONAL WETLANDS WWW.Ms.gov/weilands.

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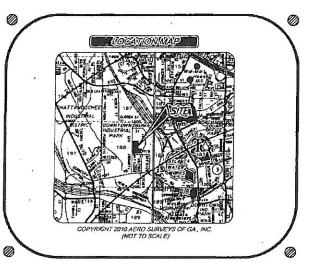
NO CEMETERIES, ARCHEOLOGICAL, OR RKS ARE KNOWN TO EXIST ON THIS SITE, HOWEVER, VALTED THE SITE OR CONSULTED WITH A QUALIFIED ELD FOR ABSOLUTE CONFORMATION.

RED FOR THE EXCLUSIVE USE FOR THE CLIENT RESENTS A SPECIFIC SCOPE OF SERVICES.

CAND TREE SURVEY FOR TERRELL MILL, LLC, BANK STEWART TITLE GUARANTY COMPANY PREPARED BY TREVISED 4-28-06.

ABLISHED USING RTK GPS METHODS WITH S NETWORK, HORIZONTAL DATUM IS GEORGIA STATE

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TAX PARCELS 17 018800020204 AND 17 018800020170

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PROPERTY INFORMA	TION
LAND LOTS: 188	
DISTRICT: 17TH	
SECTION: NA	
COUNTY: FULTON	
STATE: GEORGIA	
CITY: ATLANTA	

DRAWING INFORMATION		
DATE: 8-11-16	REVISIONS	
SCALE: 1"=60"		
DWN: JCS		
CHCK: JRG		
JOB No.: 13767		
FILE: 13767-SUB-0		

CERTIFICATION

THIS PLAT IS BASED ON A TRUE AND CORRECT SURVEY MADE ON THE GROUND UNDER MY DIRECT SUPERVISION IN CONFORMITY WITH THE TECHNICAL STANDARDS FOR PROPERTY SURVEYS IN GEORGIA AS SET FORTH IN CHAPTER 180-7 OF, THE RULES OF THE GEORGIA BOARD OF REGISTRATION FOR PROFESSIONAL ENGINEERS AND LAND SURVEYORS AND AS SET FORTH IN THE GEORGIA PLAT AGT O.C.G.A. 15-6-67.

BAIL-16

JAMES R. GREEN

JAMES R. GREEN GA R.L.S. No. 2543



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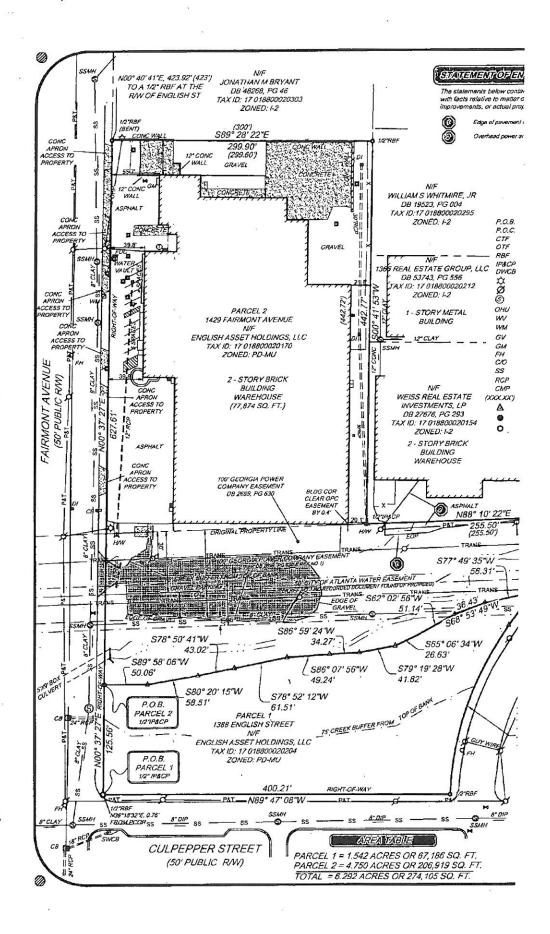


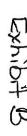
METRO ENGINEERING & SURVEYING CO., INC. SURVEYORS - ENGINEERS - PHOTOGRAMMETRISTS PROVIDING PROFESSIOMAL SERVICE SINCE 1987 14:99 Highway 20 West - McDonough, Georgia 302S3 Phone. 770-707-0777 - Fax:770-797-0755 www.metro-engineering.com

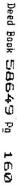
SHEET 1 OF 2

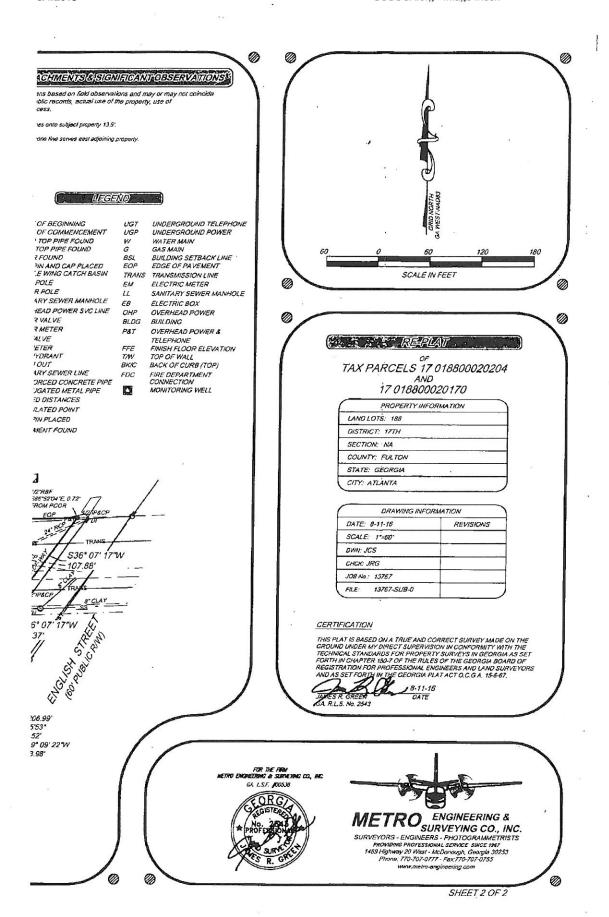
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http://search.gsccca.org/lmaging/HTML5Viewer.aspx?id=71511056&key1=58649&key2=148&county=60&countyname=FULTON&userid=351&appid=4





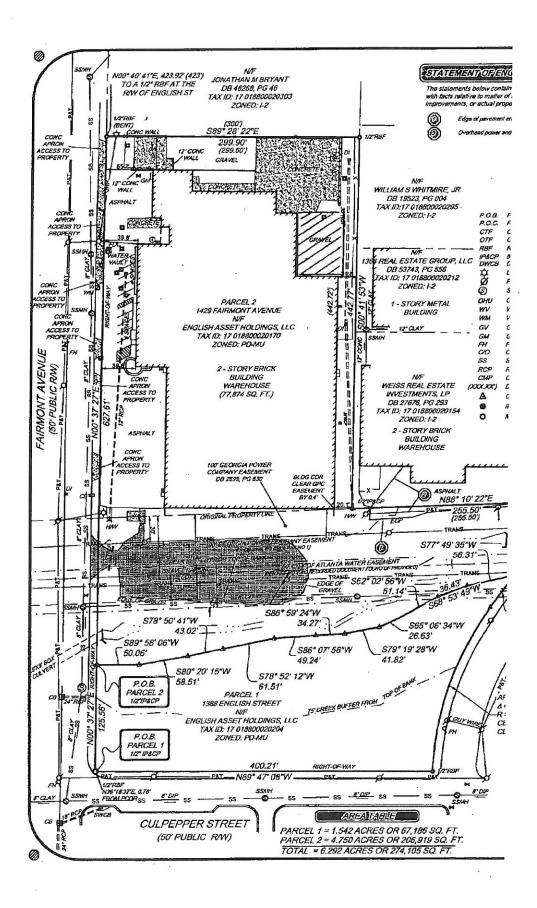


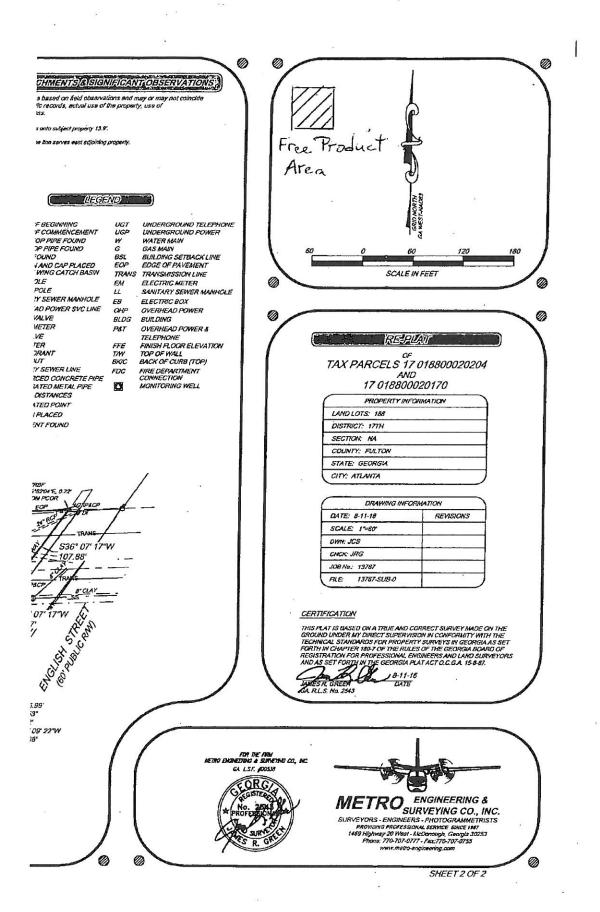


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Figure 1 Free Product Area

STAMP ADDED TO CAPTURE IMAGE





Clerk of Superior Fulton County, (چ پال

Superior Co

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NSON 163